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Attorney Docket no: SEL 247

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
)
Yamazaki et al.)
)
Serial No.: 09/815,661)
)
Filed: March 23, 2001)
)
For: Method Of Manufacturing A Light)
Emitting Device)
)
Examiner: Savitri Mulpuri)
)
Art Unit: 2812)

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January 26, 2005

RESPONSE TO RESTRICTION REQUIREMENT AND ELECTION

Applicants respectfully submit that the restriction requirement of December 30, 2004 is improper and request that it be withdrawn. In support thereof, Applicants wish to recite the following facts:

Applicants filed the present application on March 23, 2001 with Claims 1-22.

On October 7, 2002, the Examiner issued an Office Action rejecting Claims 1, 4, 5, 8, 9, 12, 13, 15, 17 and 21 under 35 USC §103(a) as being unpatentable over Katayama et al. while objecting to Claims 2, 3, 6, 7, 10, 11, 14, 16, 18-19 and 22 as being dependent on a rejected base claim but stating that the claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response, Applicants filed Amendment A on March 7, 2003. In Amendment A, independent Claims 1, 5, 9 and 17 were amended, new Claims 23-26 added, and Applicants explained why the rejected claims were patentable over the cited reference.

On May 7, 2003, the Examiner issued a Final Rejection rejecting Claims 1-26 under 35 USC §103(a) as being unpatentable over “admitted prior art” in combination with Kim et al.¹

In response, on September 8, 2003, Applicants filed Response B After Final explaining why Claims 1-26 were patentable over the cited references.

On November 3, 2003, the Examiner issued an Advisory Action stating that the request for reconsideration had been considered but the Examiner found the arguments to not be convincing.

On December 5, 2003, a RCE was filed.

On December 30, 2003, the Examiner issued a new Office Action rejecting Claims 1-26 under 35 USC §103(a) as being unpatentable over “admitted prior art” in combination with Kim et al.

In response, on March 30, 2004, Applicants filed Amendment C. In Amendment C, Applicants amended Claims 1-12, 14, 16-20, and 22, added new Claims 27-42 and explained why the claims were patentable over the cited references.

In response, the Examiner issued an Office Action dated June 28, 2004 rejecting Claims 1-42 under 35 USC §103(a) as being unpatentable over “admitted prior art” in combination with Kim et al. and Fujitsu Ltd.

In response, on September 28, 2004, Applicants filed Response D. In Response D, Applicants explained why the claims were patentable over the cited references.

In response, the Examiner issued a restriction requirement on December 30, 2004.

Applicants respectfully submit that this restriction requirement is improper. The Examiner has already searched and examined Claims 1-42 in the Office Action of June 28, 2004. MPEP §803

¹The effective date of this Final Rejection was changed from May 7, 2003 to June 7, 2003 in order to supply applicants with the application number for the Kim reference.

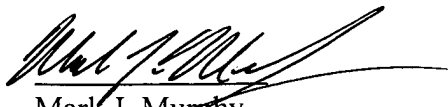
states that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." As the Examiner has already searched and examined Claims 1-42, clearly the search and examination of these claims can be made without serious burden. At this time, Applicants wish for the Examiner to consider their arguments for patentability in Response D filed on September 28, 2004 (with no amendment to the claims).

Accordingly, it is respectfully requested that the Examiner withdraw the restriction requirement, consider the arguments in Response D filed on September 28, 2004 and issue the appropriate action in response thereto.

In order to respond to the Restriction Requirement of December 30, 2004, as required by the Patent rules, Applicant provisionally elects to prosecute Species I and believe that Claims 1-27, 29, 31, 33, 35, 37, 39 and 41 are readable thereon, on the assumption that Claims 1, 5, 9 and 17 are generic.

Applicants are making this provisional election without prejudice to later filing a divisional application on the non-elected species/claims.

Respectfully submitted,


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